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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,527	07/15/2003	August Puspurs		7484

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INVENTARIUM
SUITE 1607
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CANADA

EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,527

Applicant(s)

PUSPURS, AUGUST

Examiner

Jeffrey L. Gellner

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 15 July 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to because the hole (22) in Fig. 1b is round but the stake is square. Examiner questions whether a square stake could be placed in a round hole. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 is objected to because of the following informality:

In line 3 the text "generally but not necessarily fixedly attached" is unclear because it is not clear as to the scope of the language.

In line 6, the text "through said holes" is unclear in meaning because the drawings show only one hole in the top of the connector.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-8 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 4, line 2, the limitation "a tip releasable means" lacks antecedent basis if it is the same releasably connecting means disclosed in Claim 2. Perhaps Claims 4 language should read -- wherein the releasably connecting means--.

In Claim 1, lines 2 and 5, it is not clear if the "a stake" disclosed in both lines is the same type of stake of a different type of stake.

In Claim 1, line 6, "the top" lacks antecedent basis.

In Claim 6, line 3, "said stakes" lacks antecedent basis in that in claim 1 the limitation is "a stake."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, and 8 are rejected under 35 U.S.C. §102(b) as being anticipated by Zonavich et al. (US 4,540,160).

As to Claim 1, Zonavich et al. discloses a modular plant support system (Figs. 1-8) for plants comprising a tip (24 of Fig. 4), a stake (32 of Fig. 2), and a connector section (generally 29 and 25 of Fig. 2) and holes (26 and 27 of Fig. 2); the connector section being generally

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attached to the stake (see Fig. 2; col. 3 lines 54-57); the connector section being hollow (see Fig. 2) having holes (26 and 27 of Fig. 2) to allow a stake (either 22 of Fig. 1 or 32 of Fig. 2) to be inserted into the top of the connector an through the holes in order to construct a structure.

As to Claim 2, Zonavich et al. further disclose a separate tip (24 of Fig. 4) which is releasably connected to the stake by a releasably connecting means (41 of Fig. 4).

As to Claim 3, Zonavich et al. further disclose the holes paired (see Figs. 1 and 2).

As to Claim 5, Zonavich et al. further disclose the stakes having different lengths (22 and 32 of Figs. 1 and 2, respectively)

As to Claim 7, Zonavich et al. further disclose the connector being round in shape (Fig. 9).

As to Claim 8, Zonavich et al. further disclose the connector being square in shape (Fig. 2).

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zonavich et al. (US 4,540,160).

As to Claim 4, the limitations of Claim 2 are disclosed as described above. Not disclosed is the tip releasable means consisting of two generally arrow shaped clips which engage suitably

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configured and sized notches hollowed out in the stake. However, because arrow shaped clips and screw type nut and bolt (of Zonavich et al.) were art-recognized equivalents at the time of the invention in those plant supports where it is immaterial as to the exact type of attaching means, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute arrow shaped clips for the screw type nut and bolt in Zonavich et al.

As to claim 6, the limitations of Claim 1 are disclosed as described above. Zonavich et al. further disclose stakes in the holes of the connector section. Not disclosed is a stake in the top of the connector section. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the plant support of Zonavich et al. inserting a stake in the top of the connector section so as to double the size of the fence shown in Fig. 1 so as to increase the usefulness of the device.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ballai and Cooper disclose in the prior art various supports with detachable tips. Puspurs ('925 A1) discloses the instant application's pre-grant publication.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner